IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1134 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any OJJJJ

JJJJJ

Rule. Service of rule is waived by learned advocate Shri K.C. Raval appearing for the respondent. At the request of the learned advocates the petition is finally heard today.

2. Reference No. LCV 64/83 was filed in the Labour Court, Vadodara at the instance of the present petitioners, but the present petitioners did not file a statement of claim and, therefore, the Labour Court did not entertain the claim though they had entered the witness box and had given their evidence. In the circumstances, the petitioners have approached this court with a prayer that the petitioners be permitted to file a statement of claim before the Labour Court so that their demands can be looked into by the Labour Court.

3. I have heard the learned advocates and upon hearing them, it is clear that because of some mistake on the part of the union representing the petitioners, the statement of claim was not filed by the petitioners. While entertaining this petition, by an order dated 1st March 2000, this court had directed the petitioners to deposit a sum of Rs. 5,000/- by way of costs so that the respondent, who was constrained to come to this court, can be adequately compensated. The said amount has been deposited and has also been withdrawn by the respondent.

4. Looking to the fact that the union, which was representing the present petitioners, did not file a statement of claim on behalf of the petitioners, in my opinion, it would be just if the five petitioners are given one chance to file their statement of claim before the Labour Court. At the same time, on account of the carelessness or negligence on the part of the union, the respondent-management can also not be asked to suffer and, therefore, it is directed that it would not be open to the present petitioners to claim backwages or any incidental monetary benefit from the date of the alleged termination of their services till 4.2.2000, the date on which the present petition was filed.

5. Learned advocate Shri Raval appearing for the petitioners has submitted that the statement of claim shall be filed before the Labour Court on or before 5.3.2001.

6. In the circumstances, the impugned award dated 20.1.1998 so far as it pertains to the present 5 petitioners, is quashed and set aside and the Labour Court is directed to hear the parties and decide the reference application afresh. Needless to say that it

would be open to the respondent management to lead necessary evidence before the Labour Court and the Labour Court will consider the entire evidence before passing the award.

Rule is made absolute to the above extent with no order as to costs. Direct service is permitted.

(A.R. Dave, J.)

(hn)